



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes:

ET

Introduction

This hearing was scheduled in response to the Landlord's Application for Dispute Resolution, in which the Landlord has applied to end the tenancy early and for an Order of Possession.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions to me.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to end this tenancy early and to an Order of Possession on the basis that the tenancy is ending early, pursuant to sections 56(1) of the *Residential Tenancy Act (Act)*.

Background and Evidence

The Landlord stated that she wishes to end this tenancy early as she is afraid for her safety and for the safety of her children.

The Landlord stated that on December 02, 2009 the Tenant's daughter came to her home, which is above the rental unit, to pay rent for December. She stated that she reminded the daughter that rent was due on the first day of each month, at which time the daughter called her mother. She stated that the mother and her son came running upstairs and that the son threatened to kill her and that he called her a "bitch". She stated that she immediately closed the door and contacted the police.

The Landlord stated that while she was waiting for the police the family returned to their rental suite; that the son pounded on a door that joins the two residences and continued to threaten to kill her; and that the daughter stated that she had many friends who would "take care of the bitch". She stated that the same evening she could hear people banging on the adjoining door and she could hear the occupants threatening to beat her up, to burn her house down, and to have her charged by the police.

The Landlord stated that on December 03, 2009 she could again hear banging on the adjoining door and she could hear the Tenant#2 yelling obscenities and threatening to kill her.

The Landlord stated that on December 04, 2009 she could again hear banging on the adjoining door and she could hear the Tenants' son threatening to kill her. She stated that the residential complex is not sound proof and she can hear the Tenants making derogatory comments about her almost every evening.

The Tenant #1 stated that he took the rent, in cash, to the Landlord on December 01, 2009 but he did not leave it with her because she would not give him a rent receipt. He stated that the Landlord telephoned him on December 02, 2009 to advise him that she had prepared a rent receipt and he told his wife that she should give the rent to the Landlord.

The Tenant #2 stated that she took the rent to the Landlord on December 02, 2009 and while she was waiting for the receipt the Landlord pushed her; that she fell; that she was injured when she fell; that her daughter heard her crying and rushed to assist her; that her son also came to her assistance and helped her back to the rental unit; that they called the police; and that she went to the hospital where she was treated for her injuries.

The Landlord denied pushing Tenant #2. She stated that she is recovering from knee surgery and that she would not have pushed the Tenant. The Tenants deny threatening to harm the Landlord; they deny banging on the adjoining door; and they deny directing profanities or derogatory comments at the Landlord.

The Tenant #1 stated that he personally served the Landlord with a copy of the medical report relating to the injuries sustained by Tenant #2 to the Landlord on December 14, 2009. The Landlord denied receiving a copy of this report. The Tenant #1 stated that he also submitted a copy of this report to the Residential Tenancy Branch (RTB) on December 14, 2009. This evidence was not available to me at the time of the hearing, and has not been considered when determining this matter. The Tenant did submit a hospital wrist band, in the name of Tenant #2, that establishes that she was admitted to a hospital.

The Tenants contend that the Landlord yells at them at different times of the day and night; that the Landlord has entered the rental unit without authority on many occasions; that the Landlord has stolen property from the rental unit; that the Landlord has threatened to kill Tenant #2; that someone had cut the telephone line to the rental unit; that the police have charged the Landlord with assault; and that two men approached the Tenant #3 on the street approximately two weeks ago, that the men were verbally abusive to her and advised her that she should not cause problems for her landlord, and that the Landlord sent several men to their front door on November 08, 2009 to intimidate and threaten the Tenants.

The Landlord denies all of the allegations made by the Tenants. She stated that she did see the police at the Tenant's door on November 08, 2009 but she does not know why they were called.

The Landlord submitted photographs of graffiti on her home and car, which she found on December 05, 2009 or December 06, 2009. The graffiti appears to be written by someone who is angry at the Landlord. The Tenants deny any involvement with the graffiti.

The Landlord stated that she fears for her safety, that she is shaking all the time, that she frequently bursts into tears, that she has difficulty sleeping, and that her ten-year old daughter regularly checks the adjoining door to ensure it is locked.

The advocate for the Tenant stated that she works for a non-profit agency and that the Landlord has been her client for approximately one year. She stated that her relationship with the Landlord is professional, and that she has no personal connection with the Landlord outside of her employment. She stated that the Landlord came to her office on December 04, 2009, that she was pale, frightened, and crying, and that she remained at the office for approximately three hours because she was too frightened to return home.

Analysis

After hearing the contradictory evidence regarding the profanities and threats directed towards the Landlord by the Tenants and their family members, I favor the evidence of the Landlord over the evidence of the Tenants and I find that the Tenants have repeatedly verbally harassed the Landlord. In reaching this conclusion, I was strongly influenced by the evidence of the advocate, who is an independent professional, who observed the Landlord on December 04, 2009 and noted that she was too frightened to return to her home and that she remained in the advocate's office for a period of three hours as a result of her fear.

Although the Tenants deny any involvement with the graffiti that was written on the Landlord's home and vehicle, I find that it was clearly a form of intimidation that was directed at the Landlord and, given the proximity to the incident of December 02, 2009 and the obvious animosity between the parties, I find, on the balance of probabilities, that it was written by one of the occupants of the rental unit.

On this basis, I find that the Tenants have significantly interfered with or unreasonably disturbed the Landlord.

I find that I do not need to determine whether the Landlord provoked any of this behavior by pushing the Tenant #2 or by being verbally abusive to the Tenants as I find this form of intimidation to be highly inappropriate behavior regardless of the rationale, particularly when the Landlord resides in the same residential complex as the Tenants.

I find that the relationship between the Landlord and these Tenants has deteriorated to the point that this tenancy should end.

I find that in these circumstances that it would be unreasonable to wait for a notice to end tenancy under section 47 to take effect, as I believe that the animosity that currently exists between these parties would likely escalate if the tenancy was to continue for any extended period. In reaching the conclusion that it would be unreasonable to wait for a notice to end tenancy under section 47 to take effect I am influenced, in part, by the imbalance in power between the Landlord, who is a single mother, and a family of four that consists of two parents and two grown children.

Conclusion

I find that the Landlord has established grounds to end this tenancy pursuant to section 56(2) of the Act and I therefore grant the Landlord an Order of Possession that is effective at 1:00 p.m. on January 15, 2010.

In determining that the tenancy may continue for another thirty days I am cognizant of the fact that the Tenants have not been violent; that it may be difficult to find new accommodations over the seasonal holidays; and that the tenancy will still end on a date that is earlier than it would if the Landlord were to now attempt to end the tenancy pursuant to section 47 of the *Act*.

The Order of Possession may be served on the Tenants, filed with the Supreme Court of British Columbia and enforced as an Order of that Court.

In the event that the Tenants are able to locate new accommodations by December 31, 2009, I hereby authorize them to vacate the rental unit on that date by giving the Landlord verbal notice on, or before, December 31, 2009. In the event that the Tenants do not vacate the rental unit by December 31, 2009, they are obligated to pay the equivalent of one-half of one month's rent on January 01, 2010.

Both parties are clearly advised that the Landlord retains the right to file another Application for Dispute Resolution seeking an earlier possession date in the event that the Tenant's continue to behave inappropriately.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: December 15, 2009.

Dispute Resolution Officer